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PART III—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT

Legislative

NOTIFICATION

No. 249-L.—18 th February, 2008.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information :—

West Bengal Act XXIV of 2007
THE WEST BENGAL UNORGANISED SECTOR WORKERS
WELFARE ACT, 2007.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Kolkata Gazette*,
Extraordinary, of the 18 th February, 2008.]

An Act to provide for social security and welfare of certain unorganised sector workers and to provide other measures connected therewith or incidental thereto.

WHEREAS it is expedient to provide for social security measures and welfare schemes with a view to improving the standard of living and to ameliorate the social conditions of certain unorganised sector workers ;

It is hereby enacted in the Fifty-eighth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

CHAPTER I
Preliminary.

Short title, extent
and commence-
ment.

1. (1) This Act may be called the West Bengal Unorganised Sector Workers Welfare Act, 2007.

(2) It extends to the whole of West Bengal.

The West Bengal Unorganised Sector Workers Welfare Act, 2007.
 (Chapter I.—Preliminary.—Sections 2, 3.—Chapter II.—Board, Executive Council, Fund and Schemes.—Section 4.)

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint, provided, however, that different dates may be appointed for different provisions of this Act and for different employments mentioned in the Schedule appended to this Act.

Non-application
of the Act.

2. This Act shall not apply to any person who receives any benefit under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

19 of 1952.

Definitions.

3. In this Act, unless the context otherwise requires,—

- (a) "beneficiary" means an Unorganised Sector Worker registered under section 15;
- (b) "Board" means the West Bengal Unorganised Sector Workers Welfare Board constituted under sub-section (1) of section 4;
- (c) "Family" means and includes the Unorganised Sector Worker, his or her spouse and minor legitimate, illegitimate and adopted children dependent upon the beneficiary, and his or her dependent parents ;
- (d) "Fund" means a fund constituted under sub-section (1) of section 11 ;
- (e) "Notification" means a notification published in the *Official Gazette*;
- (f) "Prescribed" means prescribed by rules made under this Act ;
- (g) "Schedule" means a Schedule to this Act;
- (h) "Scheme" means a scheme introduced under sub-section (1) of section 9 ;
- (i) "Self-employed person" means any person who is not employed by any employer but directly engaged in any occupation specified in Part B of the Schedule relating to Unorganised Sector subject to a monthly earning with such a limit as the State Government may, by notification, declare;
- (j) "Unorganised Sector" means the Unorganised Sector specified in Part A and Part B of the Schedule and includes any process or branch of work forming a part of such Unorganised Sector ;
- (k) "Unorganised Sector Worker" means a wage earner and also includes a self-employed person in the Unorganised Sector;
- (l) "Wage" means a remuneration paid, directly by the employer or through any agency or contractor whether exclusively by one employer or more employers, in cash or in kind to any unorganised sector worker with such monthly limit as the State Government may, from time to time, notify.

CHAPTER II

Board, Executive Council, Fund and Schemes.

Constitution of the Board and the terms and conditions of appointment, and salaries and allowances payable to the Chairman, Vice-Chairman and other member of the Board.

4. (1) The State Government shall, by notification in the *Official Gazette*, constitute a Board to be called "The West Bengal Unorganised Workers Welfare Board" for the purpose of administering the "Fund" created herein and for implementing the schemes introduced under this Act:

Provided that the State Government may set up regional offices under the Board for the purpose of implementing the objects of this Act.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall sue and be sued by the name of the West Bengal Unorganised Workers Welfare Board.

(3) The Board shall consist of a Chairperson and a Vice-Chairperson to be nominated by the State Government and such number of other members representing the employers,

The West Bengal Unorganised Sector Workers Welfare Act, 2007.
(Chapter II.—Board, Executive Council, Fund and Schemes.—Sections 5 - 9.)

the unorganised sector workers and shall include other officials of the Government, as the State Government may, by order, decide.

(4) The State Government may appoint an officer of the Labour Department as the Secretary of the Board, who shall not be a member of the Board.

(5) The terms and conditions of the appointment and the salaries and other allowances payable to the Chairperson, the Vice-Chairperson and the other members of the Board and the manner of filling of casual vacancies by reason of death, resignation or inability to discharge functions owing to illness or other incapacity or for any other reason by, the Chairperson, the Vice-Chairperson and the other members of the Board shall be such as may be prescribed.

Officers and employees to be appointed by the Board and their terms and conditions of appointment.

5. (1) The Board shall, with the approval of the State Government, appoint its own officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of appointment and the salary and other allowances payable to the officers and employees of the Board shall be such as may be prescribed.

Meetings of the Board.

6. (1) The Board shall meet at such time and places, and shall observe such rules of procedures in regard to the transaction of business at its meetings (including the quorum) as may be prescribed.

(2) The Chairperson shall preside over the meeting of the Board. If for any reason, the Chairperson is unable to attend the meeting of the Board, the Vice-Chairperson shall preside over the meeting.

(3) All questions which come up before a meeting of the Board shall be decided by majority of votes of the members present and in the event of equality of votes, the Chairperson or in his absence, the Vice-Chairperson presiding shall have a second or a casting vote.

Vacancies amongst members or defect in Constitution not to invalidate acts or proceedings of the Board.

7. No act or proceedings of the Board shall be deemed to be invalid by reason of —

- (a) any vacancy in or any defect in the Constitution of the Board ;
- (b) any defect in the appointment of a person acting as a Chairperson, the Vice-Chairperson and the members of the Board; and
- (c) any irregularity in the procedure of the Board not affecting the merit of the case.

Executive Council.

8. (1) The Board shall function through an Executive Council set up by it.

(2) The Executive Council set up under sub-section (1) shall consist of —

- (a) a Chairperson to be nominated by the Board ;
- (b) an Officer of the State Government not below the rank of Joint Secretary to that Government as Chief Executive Officer of the Board who shall be the Member-Secretary of the Executive Council ;
- (c) a person to be nominated by the Board having expertise in Banking transactions ; and
- (d) a person to be nominated by the Board having expertise in audit and accounts.

Scheme.

9. (1) The Board may introduce—

- (a) any Health Insurance Scheme and Accident Insurance Scheme for the beneficiaries ;
- (b) any scheme for providing pension to the beneficiaries who have completed the age of sixty years and to the members of the family in case the beneficiary dies;

*The West Bengal Unorganised Sector Workers Welfare Act, 2007.**(Chapter II.—Board, Executive Council, Fund and Schemes.—Sections 10 - 14.)*

- (c) any scheme for house building loans and advance to the beneficiaries ;
- (d) any scheme to provide financial assistance for education of the children of the beneficiaries ;
- (e) any scheme to provide maternity benefit to the female beneficiaries ;
- (f) any scheme to provide such other welfare measures and facilities as may be decided by the Board with the approval of the State Government.

(2) The existing schemes run under the direct financial assistance by the State Government, shall, henceforth, be taken over by, and transferred to, the Board. The State Government shall transfer all the accumulated fund under the existing schemes (including the employees' contributions and the Government contributions therein) to the Board on a date to be notified by the State Government.

(3) Every scheme introduced under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

State Government
to provide grants
and loans to the
Board.

10. The State Government may, after due appropriation made by the State Legislature by law in this behalf, make to the Board grants and loans of such sums of money as the State Government may consider necessary.

Fund of the Board.

11. (1) There shall be constituted by the Board a fund to be called "the West Bengal Unorganised Sector Workers Welfare Fund" and there shall be credited thereto —

- (a) any grants and loans made to the Board by the State Government under section 10;
- (b) all the contributions made by the beneficiaries ;
- (c) contributions by the employers, if any ;
- (d) all sums received by the Board from such other sources as may be determined by the State Government.

(2) The Fund shall be applied for meeting —

- (a) the expenses of the Board in discharge of its function under section 9 ;
- (b) Salaries, allowances and other remuneration of the Chairperson, the Vice-Chairperson, members, officers and other employees of the Board;
- (c) the expenses to be incurred for the accomplishment of the objects and for the purposes authorized by this Act.

(3) The Board shall incur, in any financial year, expenditure towards salaries, allowances and other remuneration to its Chairperson, Vice-Chairperson, members, officers and other employees and for meeting the other administrative expenses within such limits as may be prescribed.

Budget.

12. The Board shall prepare, in such form and at such time of each financial year as may be prescribed, its budget for the next financial year showing the estimated receipts and expenditure of the Board and forward the same to the State Government.

Annual report.

13. (1) The Board shall prepare in every financial year, in such form and at such time as may be prescribed, an annual report giving a full account of its activities during the previous financial year and a copy thereof shall be forwarded to the State Government.

(2) The State Government shall cause the annual report to be laid, as soon as may be after its receipt, before the State Legislature.

Accounts and
Audit.

14. (1) The Board shall cause to be maintained such books of account and other books and records in relation to its accounts, and prepare an annual Statement of accounts, in such form and in such manner as may be prescribed.

The West Bengal Unorganised Sector Workers Welfare Act, 2007.
(Chapter III.—Registration of Unorganised Workers as Beneficiaries.—
Section 15.)

(2) The accounts of the board shall be audited by a person or agency authorised by the Board.

(3) Notwithstanding anything contained in sub-section (2), the accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(4) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts, and in particular, shall have the right to demand the production of books, accounts, Connected Vouchers, documents and papers and inspect any of the offices of the Board.

(5) The Board shall furnish to the State Government on such date as may be prescribed its audited copy of accounts together with the Auditor's report.

(6) The State Government shall cause the annual report and Auditors report to be laid, as soon as may be after their receipt, before the State Legislature.

CHAPTER III

Registration of Unorganised Sector Workers as Beneficiaries.

Registration of
Unorganised
Sector Worker.

15. (1) Every Unorganised Sector Worker who has completed eighteen years of age but has not completed sixty years of age, shall be eligible for registration as a beneficiary under this Act.

(2) An application for registration shall be made in such form, as may be prescribed alongwith the fees for registration not exceeding twenty rupees, to the officer authorized by the Board in this behalf :

Provided that every Unorganised Sector Worker who have already been enrolled in the scheme under the assistance of the State Government shall be deemed to be registered as a beneficiary under this Act and they do not need to make any fresh application for registration.

(3) The Board may decide upon the fees for registration within the limits specified in sub-section (2).

(4) If the officer authorised by the Board is satisfied that the applicant has complied with the provisions of this Act and the rules made thereunder, he shall register the name of the Unorganised Sector Worker as beneficiary under this Act :

Provided that an application for registration cannot be rejected without giving the applicant an opportunity of being heard.

(5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the Chief Executive Officer of the Board, or any other officer specified by the Board in this behalf and the decision of the Chief Executive Officer or such other officer on such appeal shall be final :

Provided that the Chief Executive Officer, or other officer specified by the Board in this behalf, may entertain an appeal after the expiry of the said period of thirty days if he is satisfied that the Unorganised Sector Worker was prevented by sufficient cause for filing the appeal in time.

(6) The Chief Executive Officer of the Board shall cause to maintain a register of the beneficiaries and such other registers as may be prescribed.

The West Bengal Unorganised Sector Workers Welfare Act, 2007.
(Chapter III.—Registration of Unorganised Sector Workers as Beneficiaries.
—Section 16.—Chapter IV.—Registration of Establishment.—Sections 17, 18).

(7) The Board shall give to every beneficiary an identity card with his photograph duly affixed thereon with necessary entries about the details of the beneficiary.

(8) A beneficiary who has been issued an identity card under this Act shall present the same whenever demanded by any officer of the Government or of the Board, for inspection.

Cessation as
beneficiary.

16. (1) An Unorganised Sector Worker who has been registered as a beneficiary under this Act shall cease to be as such when he dies and when he attains the age of sixty years or when he is not engaged in the occupation of, or in the employment of, the Unorganised Sector or when he voluntarily expresses his intention, in writing, to the Registering Officer that he is not to be governed by or under this Act.

(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least five years continuously immediately before attaining the age of sixty years, he shall be eligible to get the benefit of pension under section 9 and such other benefits as may be prescribed subject to the provision of this Act.

CHAPTER IV Registration of Establishment.

Registration of
Establishment.

17. The State Government may, on the recommendation of the Board, by an order notified in the *Official Gazette*—

- (a) require every employer in respect of Unorganised Sector to get his establishment, as is specified in Part A of the Schedule, registered under this Act, with such registration fees and with such monthly contribution or annual contribution to the fund of the Board, as may be prescribed ; and
- (b) appoint such number of persons being officers of the State Government, as it thinks fit, as Registering Officers for the purpose of this section and define the limits within which a Registering Officer shall exercise his powers conferred on him by or under this Act.

Application for
registration.

18. (1) Every employer shall, in relation to an establishment in respect of which a notification has been issued by the State Government under clause (a) of section 17, within a period of sixty days from such notification, make an application to the Registering Officer for the registration of such establishment :

Provided that the Registering Officer may entertain any such application after the expiry of the said period of sixty days, if he is satisfied that the applicant is prevented by sufficient cause from making the application within the stipulated period.

(2) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed.

(3) After receipt of an application under sub-section (1), the Registering Officer shall register the establishment and issue certificate of registration of the establishment to the employer thereof in such form and within such time subject to such conditions as may be prescribed.

The West Bengal Unorganised Sector Workers Welfare Act, 2007.
(Chapter V.— Inspection.— Section 19.—Chapter VI.—Penalties and
Prosecution.—Section 20.)

CHAPTER V

Inspection.

Inspectors.

19. (1) The State Government may, by notification in the *Official Gazette*, appoint any person in the employment of the State Government or of the Board to be Inspectors for the purposes of this Act and define the local limits within which they will exercise their powers under this Act.

(2) Subject to any rules made under this Act, an Inspector appointed under sub-section (1) may, within the local limit for which he is appointed —

- (a) enter, at any reasonable time and with such assistance as may be deemed necessary viz. with the assistance of the persons in the service of the Board or any legal authority or public authority as he thinks fit, in the premises or place where any trade or business connected with the Unorganised Sector is carried on, for the purpose of examining any record, register etc. and require the production thereof for inspection ;
- (b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a worker employed therein;
- (c) require any person in charge of the premises at the time of inspection to give information regarding names and addresses of the workers employed therein and also give such other information in connection with, and relevant to, the provisions of this Act or schemes or rules made thereunder ;
- (d) seize or take copies of register, record of wages or any other documents or portions thereof as he may consider relevant in respect of an offence in this Act which, he has reason to believe, has been committed by an employer; and
- (e) exercise such other powers as may be prescribed.

(3) Any person who is required to produce any document or to furnish any information required by an Inspector under sub-section (2), shall be bound to do so.

(4) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under an authority of a warrant issued under section 94 of the said Code.

CHAPTER VI

Penalties and Prosecution.

Offence and
penalties.

20. (1) Any person, who wilfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act, or intentionally omits to produce or deliver up, for inspection on demand by an Inspector appointed under this Act, any register, records or other documents, or intentionally omits to furnish any information required under this Act shall, on conviction be punished —

- (a) for the first offence, with imprisonment for a term which may extend to three months or with a fine which may extend to one thousand rupees or with both; and

The West Bengal Unorganised Sector Workers Welfare Act, 2007.
(Chapter VI.—Penalties and Prosecution.—Section 21.—Chapter VII.—
Miscellaneous.—Sections 22 - 28.)

(b) for second and subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees, or with both.

(2) If an employer of the Unorganised Sector fails to get his establishment registered under this Act or fails to pay and contribution which under this Act he is liable to pay shall, on conviction, be punished with imprisonment for a term which may extend to one year or with a fine which may extend to five thousand rupees, or with both.

Previous sanction
of the State
Government
necessary.

21. No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the State Government.

CHAPTER VII
Miscellaneous.

Power to make
rules.

22. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

Power to amend
Schedule.

23. The State Government, after giving by notification in the *Official Gazette* not less than three months' notice of its intention so to do, may, by like notification, add to either part of the Schedule any employment to be covered under this Act and thereupon the Schedule shall be deemed to be amended accordingly.

Directions by the
State Government.

24. The State Government may give the Board such directions as in its opinion are necessary or expedient in connection with expenditure from the fund or for carrying out any of the purposes of this Act and it shall be the duty of the Board to comply with such directions.

Powers of the
Board.

25. The Board may introduce any scheme for the Unorganised Sector Workers under section 9 with such conditions as may be incorporated in the scheme regarding the rate of contribution by the beneficiary, the mode and the manner of deposit, collection or contribution made by the beneficiary, forfeiture of the right of the beneficiary under such circumstances as may be incorporated in the scheme, deposit of the employers' contribution, if any, to the fund by the employer, maintenance of necessary forms and registers, for any scheme and nomination of the beneficiary.

Chairperson, Vice-
Chairperson,
Members, Officers
and employees to
be public servants.

26. The Chairperson, the Vice-Chairperson, the members, and all the Officers and other employees including the Chief Executive Officers shall, while acting, or purporting to act, in pursuance of, or in exercise of any power conferred by or under, any provision of this Act or the rules made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Protection for acts
done in good faith.

27. No suit or other Legal Proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Power to remove
difficulties.

28. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before the State Legislature.

*The West Bengal Unorganised Sector Workers Welfare Act, 2007.**(Schedule.)*

THE SCHEDULE

[See clauses (g), and (j), of section 3.]

PART A

1. Stone Breaking and Stone Crushing;
2. Brick or Tile Manufacturing;
3. Hotel and Restaurants;
4. Security Agencies;
5. Cinema;
6. Rice Mill;
7. Public Motor Transport ;
8. Hired Motor Vehicles Service ;
9. Boatman Service ;
10. Tailoring Industry;
11. Printing Press ;
12. Book Binding ;
13. Hand-loom ;
14. Power-loom ;
15. Sericulture;
16. Forestry and Timber Operation;
17. Bangle Making ;
18. Fire-works;
19. Embroidery Work;
20. Shops ;
21. *Chakki* Mills ;
22. Leather and Leather goods;
23. Hosiery ;
24. Bakery ;
25. Rubber and Rubber Products;
26. Saw Mill ;
27. Bone Mill;
28. Plastic Industry ;
29. Ceramic Industry;
30. Small Scale Chemical Units;
31. Cashew Processing ;
32. Coir Industry ;
33. *Khadi* ;
34. Small Scale Engineering Units;
35. Clinical Nursing Home ;
36. Silk Printing;

*The West Bengal Unorganised Sector Workers Welfare Act, 2007.**(Schedule.)*

37. *Dal* Mill ;
38. Oil Mill ;
39. Decoration ;
40. Lac Industry ;
41. Medical Plants other than Cinchona;
42. Iron Foundry ;
43. Paper Board and Straw Board Manufactories;
44. Garments Making;
45. Motor Garage;
46. Deed or Copy Writing Work in Court or Registration Office;
47. Kite and Kite Stick Manufacturing;
48. Slaughter House;
49. Type Copying Work ;
50. Earthen Pottery Work;
51. *Bidi* making ;
52. Brassware ;
53. Footwear (leather, rubber, plastic) ;
54. Hand-broken quarried stones.

PART B

1. Auto-rickshaw Operator ;
2. Rickshaw and Van Puller including Hand-pulled Cart ones ;
3. Mason ;
4. Carpenter ;
5. Painter ;
6. Electrician ;
7. Plumber ;
8. Cobbler ;
9. Head-load Workers;
10. Fisherman ;
11. Street Hawkers including Newspapers Hawkers ;
12. Railway Hawkers ;
13. *Aya* or Attendant engaged in Hospitals or Nursing Homes by patients;
14. Weaver and others in Hand-loom;
15. Domestic workers.

By order of the Governor,

ANINDYA BHATTACHARYYA,
*Secy.-in-charge to the
Govt. of West Bengal,
Law Department.*